could justify his reaching the decision which he made. Although in the appellant's written case the judge's rejection of the allegation of malice was attacked, Lord Hooson, with characteristic realism, did not embark upon arguing what would have been hopeless point.

For the reasons set out above their Lordships are satisfied that the judge was entitled to find that the defence of fair comment had been fully established by the respondent. This is, as stated above, a complete defence to the appellant's claim for damages for slander and this conclusion is sufficient to dispose of this appeal.

Their Lordships had the benefit of submissions made by Lord Hooson QC and Lord Alexander QC of Weedon, on behalf of the respondent, as to whether, if the defence of fair comment had failed, the judge and the Court of Appeal were in error in deciding that the appellant could not take advantage of s 5 of the Defamation Act 1960 and recover general damages for the slander, notwithstanding the absence of special damage. However, in the light of their conclusion that the judge was justified in accepting the defence of fair comment, their Lordships see no virtue, in the special and unusual circumstances of this case, in burdening this judgment with what, for all practical purposes, would be a lengthy disquisition which would be of little but academic interest.

Accordingly their Lordships dismiss this appeal with costs.

Appeal dismissed.

Solicitors: *Penningtons Ward Bowie*; *Linklaters and Paines*.

Reported by *Terence Tan Bian Chye*

SINGAPORE REPORTS

Anthony s/o Savarimiuthu v Soh Chuan Tin

HIGH COURT (SINGAPORE) – ORIGINATING MOTION NO 152 OF 1988
LAI KEW CHAI J
18 MAY 1989

Civil Procedure – Appeal from damages award of magistrate – Amount of damages below statutory amount – Leave to appeal sought – Circumstances for granting leave – Material departure from statement of claim alleged – Omission to mention fact in statement of claim – Whether appellant misled – Supreme Court of Judicature Act (Cap 322, 1985 Ed), s 21

The plaintiff was involved in an accident between his taxi and the defendant's lorry. The plaintiff was awarded $1,660 as damages by a magistrate in his suit against the defendant. The defendant sought leave to appeal under s 21 of the Supreme Court of Judicature Act against the magistrate's order. He sought to argue that the plaintiff had materially departed from his statement of claim and from his police report as regards the part of his taxi that had collided with the defendant's vehicle.

Held, dismissing the application:

(1) Examining the evidence, there was no departure in the plaintiff's case at all from beginning to end. The defendant knew or ought to have known from the pleadings, the police report and the photographs what the plaintiff's case was. The plaintiff made some omissions but these did not mislead the defendant.

(2) For the defendant to obtain leave to appeal where the amount of damages is below the statutory amount in s 21 of the Supreme Court of Judicature Act, he had to show that a serious and important issue of law is involved.

(3) The cases on this area show that leave would be granted when the applicant for leave is able to demonstrate a prima facie case of error or if the question is one of general principle upon which further argument and a decision of a higher tribunal would be a public advantage. These cases are however not exhaustive but are examples which have a common thread: to deny leave may conceivably result in a miscarriage of justice.

(4) This case was merely a dispute on facts for which leave should be granted. The trial magistrate had evidence of two versions and he was perfectly entitled to accept either version.

Cases referred to
1 *Wong Yin & Ors* v *Wong Mook* [1948] MLJ 164 (refd)
2 *Pang Hon Chin* v *Nahar Singh* [1986] 2 MLJ 145 (refd)

Legislation referred to
Supreme Court of Judicature Act (Cap 322, 1985 Ed) s 21

Mahendra Prasad Rai for the applicant/appellant.
Colin Caines for the respondent/plaintiff.

Cur Adv Vult

Lai Kew Chai J: This is an application for leave to appeal under s 21 of the Supreme Court of Judicature Act against the judgment of a magistrate who awarded $1,660 damages to the plaintiff arising out of a collision between

the plaintiff's taxi and the defendant's lorry. Section 21 provides, inter alia, that there shall be a right of appeal if the amount in dispute exceeds $2,000 or 'with leave of the High Court if under that amount'. The High Court's power is obviously discretionary and such discretionary power has to be exercised judicially and ought to be exercised if prima facie and generally it could be shown that justice would require an appellate investigation of the case.

I was referred by counsel for the appellant/defendant to two cases, namely, *Wong Yin & Ors* v *Wong Mook*[1] and *Pang Hon Chin* v *Nahar Singh*.[2] These cases did not lay down any exhaustive principle but they are authority for the following propositions. To obtain leave to appeal when the amount involved is below the statutory amount an applicant for leave must show that a serious and important issue of law is involved. That was held by Murray-Aynsley CJ in *Wong Yin's* case,[1] on the basis that rights of appeal are purely creatures of statutes and a court cannot entertain any which cannot be brought strictly within the statutory limit. The circumstances for granting leave would include (though obviously not limited to) cases where an applicant is able to demonstrate a prima facie case of error or if the question is one of general principle upon which further argument and a decision of a higher tribunal would be to public advantage. That was pronounced by Edgar Joseph Jr J in *Pang Hon Chin's* case.[2] These propositions have a common thread: that to deny leave may conceivably result in a miscarriage of justice.

The appellant in this case sought to persuade me that the respondent had materially departed from para 2 of his statement of claim and from his police report where he said that the nearside of his taxi had collided into the rear offside of the lorry which had emerged from a parking lot. It was said by counsel that, at the trial, the driver of the taxi had said that the lorry was parked at 90 degrees to Bishan Street 12 and had emerged from the parking lot and that on seeing the lorry he swerved to his right and, in spite of his evasive action, the collision occurred. Counsel for the appellant referred to the surveyor's damage report which recorded that there was 'frontal (nearside)' damage to the taxi. That was the first alleged material departure in the respondent's case. The second material departure was based on the photographs which showed that the off-side front bumper of the taxi was also damaged. But counsel for the respondent pointed out that the driver of the taxi had explained that this damage was a consequential damage, which resulted from the impact on the nearside front bumper. Counsel for the appellant could then only say that he was not sure if the trial magistrate had accepted this part of the respondent's evidence.

I was of the view that there was no departure in the respondent's case at all from beginning to end. The appellant on the pleadings, the police report and the photographs knew or ought to have known that it was the respondent's case that the appellant's lorry had emerged from a parking lot and had incommoded the taxi, resulting in the collision. The omission to mention the swerving action to the right of the taxi in the statement of claim and in the police report did not mislead and it could not have misled the appellant at all. Accordingly, I came to the conclusion that this was merely a dispute on facts for which leave to appeal should not be granted and that the trial magistrate had evidence of the two versions and he was perfectly entitled to accept either version on the evidence before him. I therefore dismissed the motion with costs.

Motion dismissed.

Solicitors: *Niru & Co*; *Khosa & Caines*.

Reported by *Terence Tan Bian Chye*

Melati Bte Haji Salleh v Registrar-General of Births & Deaths & Anor

HIGH COURT (SINGAPORE) – ORIGINATING SUMMONS NO 62 OF 1989
CHAN SEK KEONG J
5 MAY 1989

Family Law – Adoption – Right of adopted child to inspect Adoption of Childen Register – Object of amended Adoption Act – Whether legal effect of adoption relevant to right to inspect – Purpose of inspection of Register – Adoption Act (Cap 4, 1985 Ed), s 12(6), (10) & (11) – Adoption Act (Cap 43, 1970 Ed), s 11(6) & (8)

The plaintiff, who was adopted by Malay parents, believed her natural parents were Chinese. She applied to inspect the Adoption of Children Register ('the Register') and make copies of it. Following the defendants' refusal, she applied to the court for an order that she be allowed to inspect the Register. Her supporting affidavit stated that she wished to know the identities of her natural parents so she could provide for them in her will. The defendants argued that the order should not be granted because the object of the amendments to the Adoption Act was to protect the interests of all parties to the adoption. It was further argued that since an adoption order severs forever all the rights and obligations between the natural parents and the child, the court should not in principle grant the order. Granting the order would set a dangerous precedent, as it may be abused and lead to undesirable social consequences. It was also claimed that the application was not made on bona fide grounds as it was made at such a late stage (the plaintiff was aged 34) and her natural parents were unlikely to survive the plaintiff.

Held, granting the order:

(1) The law before 15 May 1972 was that every person had a right to obtain a certified copy of any entry in the Register. However, s 5 of Act 9 of 1972 changed the procedure for the